

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

CHARLOTTE B. PALM,)	
)	
Plaintiff,)	
)	
v.)	CV-07-120-B-W
)	
SISTERS OF CHARITY HEALTH)	
SYSTEMS, et al.,)	
)	
Defendants.)	

ORDER AFFIRMING THE RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE

On May 28, 2008, United States Magistrate Judge Kravchuk issued a decision in which she recommended that the Court grant a motion to dismiss filed by the Sisters of Charity Health Systems, St. Mary's Regional Medical Center, Community Clinic Services, Elliot Gruen, Paul Rouleau, Abhay Sing, and Andie Wishman, as well as a motion for summary judgment filed by Ira Shapiro. *Recommended Decision on a Mot. to Dismiss (Docket No. 56) and on a Mot. for Summ. J. (Docket No. 58) (Docket # 64) (Rec. Dec.)*. The Plaintiff filed her objections to the Recommended Decision on June 5, 2008. *Pl.'s Objection to Recommended Decision on a Mot. to Dismiss (Docket # 56) and on a Mot. for Summ. J. (Docket No. 58) (Docket # 65) (Pl.'s Obj.)*. After review and consideration of the Recommended Decision, together with the entire record, the Court has made a *de novo* determination of all matters adjudicated by the Magistrate Judge. The Court affirms the Recommended Decision.¹

¹ Ms. Palm quite naturally objects to what she perceives as an inconsistency between the rationales of the two dispositive orders in this case. Summary judgment was granted against her state claim because the Defendants are deemed state employees for purposes of the immunity provisions of the Maine Tort Claims Act claim, *Order Affirming the Recommended Decision of the Magistrate Judge* (Docket # 50); yet, her federal claim is being dismissed because the Defendants are non-state actors for purposes of her § 1983 claim. Judge Selya once wrote in a different context that the law sometimes works "in ways that might strike lay persons as peculiar." *United States v. Reckco*, 151 F.3d 29, 31 (1st Cir. 1998). This is one of those instances. But, peculiar is not necessarily wrong.

1. It is therefore ORDERED that the Recommended Decision is AFFIRMED.
2. It is further ORDERED that the Motion to Dismiss filed by Sisters of Charity Health Systems, St. Mary's Regional Medical Center, Community Clinic Services, Elliot Gruen, Paul Rouleau, Abhay Sing, and Andie Wishman (Docket # 56) be GRANTED and the Summary Judgment motion filed by Ira Shapiro (Docket # 58) be GRANTED.
3. Finally, it is ORDERED that the remaining counts in the Third Amended Complaint (Docket # 25-2) be DISMISSED.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 30th day of June, 2008

Here, Justice Hjelm, who was extensively quoted in the Recommended Decision, artfully expressed what underlies these seemingly contradictory conclusions. Like the magistrate judge, the Court in reviewing the Recommended Decision can do no better in explaining why the law mandates this counterintuitive result than what Justice Hjelm has already done.